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sequences. In *McDowall v. The Q. W. R. Co.* [1903] 2 K. B. 331, our Court of Appeal reversed the judgment below, not because the railway company could not be liable to a passer-by suffering from tricks played with its rolling stock by trespassers, but because the particular trick that was played was not such as any former experience could lead a reasonable man to anticipate. Now in the leading American case, *R. R. Co. v. Stout*, the company had actually used precaution which with timely repair would have been sufficient, and thus had established, one may almost say, a measure of duty against itself. If this be not the decisive fact in the case, the Supreme Court would seem (with great respect) almost to have held that the mere occurrence of an accident shows that particular accident to have been probable, at any rate when the sufferer is an infant; or, rather, entitles a jury to say it was probable: which, as it is more tempting to be generous to the plaintiff at the defendant's expense than to be just to the defendant, they commonly do. I do not think any English court has gone quite so far.

Some American courts appear to have carried their charity toward infants to the point of putting an infant trespasser in a better position than an adult licensee; for it is well settled in America (I collect from our learned author) no less than in England that a mere licensee is entitled at most not to suffer from concealed danger created by the occupier's acts. In *Union Pac. Ry. v. McDonald* (1894) 152 U. S. 262, the burning slack heap under ashes was such a danger; there was no one to tell the plaintiff, in the substance of the Horatian phrase which exactly fits, *Incedis per ignes suppositos cineri doloso*. An adult, it is admitted, might equally have recovered without assigning any cause for a slight and apparently harmless deviation from the pathway. In fact the defendant had created a dangerous nuisance: *Barnes v. Ward*, 9 C. B. 392, is a similar and less strong case, and of undoubted authority. From a decision so manifestly just there is no ground to infer any general encouragement of the 'curious and agile' infant trespasser; and we do not suppose that he will find much in England when the occasion arises. On the whole the learned criticism of Professor Jeremiah Smith and Professor Burdick seems justified. This is quite consistent with holding that one who is aware in a specific case, of a helpless, infirm or incapable person being exposed to danger from something in his conduct and control, is bound to a special measure of caution according to the apparent risk, meaning thereby the risk which would be perceived then and there by a vigilant reasonable man.

FREDERICK POLLOCK.

A TREATISE ON THE LAW OF REAL PROPERTY. By Frank Goodwin. Boston: Little, Brown & Co. 1905. pp. lii, 531.

That a lecturer for many years on the law of real property should ultimately embody in permanent form the substance of his lectures is natural as well as commendable, and it must be conceded that there is an audience for Professor Goodwin beyond the limits of his class room. There is much in the law of real property that lends itself to the didactic and expository form of instruction, and the little volume before us makes good use of the opportunity. Re-

taining, perhaps too completely, the easy and familiar style of the lecture, it is, in the main, a clear and intelligent presentation of its subject. Too elementary and restricted in scope for a 'treatise,' it may at least claim, in its 460 pages of text, to supply a useful and fairly satisfactory outline of property law. It is too much to expect that a book of this kind will be much in demand by practicing lawyers and judges, but the very deficiencies which render it of slight value to them—its very general character and suppression of detail—are an advantage in a student's hand-book. Its principal defect from this point of view is the almost complete lack of argument, of explanation, of reasoning from principles, especially in the statement of modern and contemporaneous doctrine. Akin to this is the infrequency of any reference to the social or other conditions by which the law is shaped. Many legal doctrines are their own excuse for being, but much of the law of real property is unintelligible unless related to the life of the people among whom it has taken form. That the author has a capacity for legal scholarship is evinced by the learned notes on the validity of an oral agreement to stand seised (142-152) and on the power of an heir over an executory devise, etc., (323-338), but these (reprinted from periodicals) are curiously out of place in a work of the general and elementary character of the book under consideration.

The arrangement of topics is sometimes puzzling, and suggests the lack of a carefully ordered plan. It is not easy to see why the treatment of the fee tail estate (chap. x) should be separated by five chapters from that of "The Fee Simple and some other Fees" (chap. iv), nor why the remainder (chap. ix), the contingent remainder (chap. xiii) and the cross remainder (chap. xv) should have been scattered among different and alien topics, nor yet why the consideration of uses and trusts should be dropped at page 152, only to be resumed at page 344.

With these infelicities of arrangement, the reader is struck by a lack of balance and proportion in the presentation of the matter contained in the work. The subject of conditional and future estates is fully and, in the main, as satisfactorily treated, while other topics of importance, such as easements, covenants running with the land and natural rights are dealt with in a somewhat haphazard and unsatisfactory style. On the other hand, the manner of treatment generally adopted, by the statement of cases, is to be commended. With all its defects the book is an interesting exposition of the law of real property in its general outlines and should prove useful to the student who lacks the advantage of a thorough course of instruction in the subject.

CURRENT LAW. George Foster Longsdorf, Editor in Chief. St. Paul: Keefe-Davidson Co. 1904. pp. Vol. I, x, 1208; Vol. II, xviii, 2195. 1905. pp. Vol. III, xv, 1710; Vol. IV, xv, 1971.

This latest effort of the digester to cope with the multitudinous and prolific reporter deserves the gratitude of the profession. It owes its peculiar and distinguishing features to the well-founded conviction that the ordinary digest of decisions itself needs a digest to open up its wilderness of precedents to those who would go straight to their goal. Accordingly the statements of current law are printed in large